

UNITED STATES DISTRICT COURT

for the

Northern District of California

FILED

Mar 01 2022

Mark B. Busby
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

United States of America

v.

Jose Alfaro Gamero

Case No. 4:22-mj-70225-MAG

*Defendant(s)***CRIMINAL COMPLAINT**

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of Dec. 15, 2021 in the county of Alameda in the
Northern District of California, the defendant(s) violated:*Code Section**Offense Description*

18 U.S.C. § 111 (a)

Assault on a Federal Officer: 1 year incarceration, \$100,000 fine, 1 year supervised release, and \$25 special assessment; and

18 U.S.C. § 1361

Destruction of Government Property: 10 years' incarceration, \$250,000 fine, 3 years' supervised release, and \$100 special assessment.

This criminal complaint is based on these facts:

Attached Affidavit of Special Agent Alvarez, FBI.

☒ Continued on the attached sheet.Approved as to form Thomas Newman
AUSA Thomas Newman/s/ Beth Alvarez
*Complainant's signature*Special Agent Beth Alvarez, FBI
Printed name and title

Sworn to before me by telephone.

Date: February 28, 2022Kandis Westmore
*Judge's signature*City and state: Oakland, CaliforniaHON. KANDIS A. WESTMORE*Printed name and title*

1 UNITED STATES DISTRICT COURT

2
3 FOR THE NORTHERN DISTRICT OF CALIFORNIA

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5 AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

6
7 1. I, Beth Alvarez, a federal law enforcement agent with the Federal Bureau of Investigation
8 (“FBI”), being duly sworn, hereby depose and state as follows:

9
10 I. INTRODUCTION

11 2. I am a Special Agent of the Federal Bureau of Investigation (“FBI”) and have been so
12 employed since November 2002. As an FBI Special Agent, I have investigated various federal crimes,
13 including bank robberies, fugitives, extortion, art theft, and firearms-related crimes. As a federal agent,
14 I am authorized to investigate violations of the laws of the United States, and I am a law enforcement
15 officer with authority to execute warrants issued under the authority of the United States.

16 3. I make this affidavit in support of a criminal complaint and application for an arrest
17 warrant in connection with Alfaro Gamero’s arrest on December 15, 2021. While federal officers
18 executed an arrest warrant on December 15, 2021, Alfaro Gamero assaulted them and intentionally
19 damaged federal property.

20 4. The facts in this affidavit come from my personal observations, my training and
21 experience, and information obtained from other agents and witnesses. This affidavit is intended to
22 show merely that there is sufficient probable cause for the requested warrant and does not set forth all of
23 my knowledge about this matter.

24 5. Based on the facts set forth in this affidavit, there is probable cause to believe that
25 violations of Title 18, United States Code, Section 111(a)(1) (assault), and Section 1361 (destruction of
26 government property) have been committed by Jose Alfaro Gamero.

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II. APPLICABLE STATUTES

6. Title 18, United States Code, Section 111(a)(1), penalizes individuals who assault, resist, impede, intimidate, and interfere with an officer or employee of the United States, as specified in 18 U.S.C. § 1114, who is engaged in the performance of his or her duties.

7. Title 18, United States Code, Section 1361, penalizes an individual who willfully injures and commits depredation against property of the United States, or of any department and agency thereof, causing damage in excess of \$1,000.

III. FACTS SUPPORTING PROBABLE CAUSE

8. On December 15, 2021, Federal Agent #1, Agent #2,¹ Federal Agent #3² (collectively, the “Agents”), and local law enforcement officers conducted surveillance at the 1400 block of 8th Street, in Oakland, California. Specifically, the Federal Agents conducted surveillance to locate and arrest Alfaro Gamero for attempted murder of a police officer, in violation of Cal. Penal Code §§ 664 and 187, driving under the influence, in violation of Cal. Vehicle Code § 23152, and violating a court order as prohibited by Cal Penal Code § 273.6.

9. While they conducted surveillance, the Agents observed Alfaro Gamero in a gold color 2010 Toyota Camry bearing California license plate 8HSY716. The 2010 Camry was parked on the south curb adjacent to 1435 8th Street, Oakland, CA. Later, while surveilling the Camry, Federal Agent #1 and Agent #2 watched a grey 2000 Honda Odyssey with California license plate 4MCM717 park near the 2010 Toyota Camry that Alfaro Gamero drove in the past. Federal Agent #1 and Agent #2 then identified Alfaro Gamero as the driver of the 2000 Honda Odyssey and watched him exit the Honda and

¹ Agent #2 is an agent employed at the California Department of Corrections & Rehabilitation who is appointed as a Deputy U.S. Marshal via Special Deputization.

² At all relevant times, the Federal Agents identified as Federal Agent #1 and 3 were federal officers within the meaning of 18 U.S.C. § 1114 who were performing their official duties. More specifically, Federal Agent #1 and Federal Agent #3 were tasked with apprehending a fugitive on December 15, 2021. I omitted the names of the Federal Agents because they are victims of the offenses alleged in this affidavit. Federal Agent #1 is a Special Agent employed at Immigration and Customs Enforcement (“ICE”), and Federal Agent #3 is a Special Agent with the Federal Bureau of Investigations (“FBI”).

1 walk toward the Camry. Alfaro Gamero was accompanied by A. J.A., who sat in the passenger seat of
2 the Camry.

3 10. Federal Agent #1 and Agent #2, and other law enforcement agents decided to arrest
4 Alfaro Gamero after he was seated in the Camry. Federal Agent #1 and Agent #3 approached the
5 Camry in their vehicles with their red/blue lights and sirens activated. Alfaro Gamero reversed the
6 Camry, collided with a car parked on the street, then rammed his car into the vehicle occupied by
7 Federal Agent #1 and Agent #2. Alfaro Gamero then intentionally drove towards and collided with the
8 vehicle occupied by Federal Agent #3.

9 11. Alfaro Gamero continued to ram the Camry into the vehicle occupied by Federal Agent
10 #1 and Agent #2, and the vehicle occupied by Federal Agent #3, which had red/blue lights and sirens
11 activated.

12 12. Alfaro Gamero then collided with another parked vehicle. Federal Agent #1, Agent #2,
13 and Federal Agent #3 exited their vehicles and identified themselves as law enforcement officers. The
14 Federal Agents ordered Alfaro Gamero to exit the Camry, but he failed to comply. The Federal Agents
15 pulled Alfaro Gamero from the Camry. While Alfaro Gamero was taken into custody, he spat in the
16 direction of the Federal Agents and shouted that he was infected with COVID-19.

17 13. Following Alfaro Gamero's arrest, the government assessed the damage to the vehicle
18 occupied by Federal Agent #1. The estimated cost to repair the U.S.-government owned vehicle
19 according to a quote from Mashore Auto Body & Paint on December 15, 2021, is \$7,088.22. Aside
20 from that estimate, the FBI received two additional estimates confirming the damage to that vehicle
21 exceeded \$7,000.

22 14. Following Alfaro Gamero's arrest, the FBI assessed the damage to the vehicle occupied
23 by Federal Agent #3. The estimated cost to repair the U.S.-government owned vehicle exceeds \$3,600
24 according to a quote received to repair the vehicle that is dated February 16, 2022. There were two
25 other estimates, in the amounts of \$3,226.03 and \$4,141.99.

26 15. Based on the above-stated information contained in this affidavit, I submit that there is
27 probable cause to believe that Alfaro Gamero did intentionally use force to assault, resist, oppose,
28 impede, intimidate, and interfere with Federal Agent #1, and Federal Agent #3, federal officers, while

1 Federal Agent #1, and Federal Agent #3 were engaged in and on account of the performance of their
2 official duties, in violation of Title 18, United States Code, Sections 111(a)(1).

3 16. Based on the above-stated information contained in this affidavit, I submit that there is
4 probable cause to believe that Alfaro Gamero did willfully injure and commit depredation against
5 property of the United States, and of any department and agency thereof, and any property which has
6 been and is being manufactured and constructed for the United States, and any department or agency
7 thereof, that is: (a) the vehicle occupied by Federal Agent #1; and (2) the vehicle occupied by Federal
8 Agent #3, thereby causing damage in an amount more than \$1000, in violation of Title 18, United States
9 Code, Sections 1361.

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11
12 I declare under penalty of perjury under the laws of the United States that the foregoing is true
13 and correct.

14
15 Respectfully submitted,

16
17 /s/ Beth Alvarez

18 BETH ALVAREZ

19 FBI Special Agent
20
21

22 Sworn to before me over the telephone and signed by me pursuant to Fed. R. Crim. P. 4.1 and
23 4(d) on this 28th day of February, 2022.

24
25
26 Kandis Westmore
27 HON. KANDIS A. WESTMORE
28 United States Magistrate Judge